EXHIBIT E

1	UNITED STATES DISTRICT COURT
2	EASTERN DISTRICT OF NEW YORK
3	x
4	AVEMARIA THOMPSON,
5	Plaintiff,
6	Civ. No.:
7	14-CV-02473
8	- against -
9	THOMAS J. SPOTA, ROBERT EWALD, and SUFFOLK COUNTY,
10	
11	Defendants.
12	X
13	100 Veterans Memorial Highway Hauppauge, New York
14	nauppauge, New 101k
l.5	December 21, 2015 11:30 a.m.
L6	11.30 a.m.
L7	EXAMINATION BEFORE TRIAL OF THOMAS SPOTA,
18	a Defendant herein, taken by the attorney for the
ا 19	Plaintiff, Pursuant to Notice, and held at the
20	above-mentioned time and place, before Kimberly
21	Dean, a stenographer and Notary Public within and
22	for the State of New York.
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- 1	

1 THOMAS SPOTA 2 background beginning with your graduation from high school? 3 Chaminade High School, Mineola; 4 Fairfield University, Fairfield, Connecticut. 5 6 St. John's Law School. And then in Brooklyn. 7 NYU graduate school of law, which I did not 8 complete. 9 You were doing what, tax? ο. 10 Α. No, actually, labor relations. 11 Q. I know you've had a long career. 12 could you kind of take me through it in a general 13 way, and if there is anything specific that I need 14 to ask you about I will ask you about. 15 In the district attorney's office? Even before that. You graduated from 16 Q. 17 What's the first thing that you do? law school. 18 Α. I was in the Marine Corps. 19 As a lawyer? ٥. 20 Α. No. 21 Q. Then, what about after you got out? 22 After I got out I worked for the Law Office of Robert Corcoran in Hicksville, 85 North 23 24 Broadway. For one year I worked for the -- I had a 25 general practice in New Hyde Park, which is in

1 THOMAS SPOTA 2 Nassau County. And I worked for a year with the town attorney's office for the town of North 3 Hempstead simultaneously with my practice. 4 5 And then I came in 19 -- the very end of '71 6 to the DA's office of Suffolk County. Just ADA, regular ADA? 7 Q. I started work as a line assistant. 8 Tell me about your progression through 9 10 the various roles in the DA's office. I was with District Court Bureau for --11 do you want to know the time frames? 12 That is helpful. Q. Yes. 1.3 Six months, I would say. Perhaps a 14 little bit longer, and I went out to the Trial 15 Bureau in Riverhead. I went then to what we call 16 17 the Major Offense Bureau, which was essentially the homicide bureau. I became the deputy chief and 18 19 ultimately the chief of that bureau, as well as the chief trial prosecutor. I left the office in --20 I'm sorry, 1982. I was called back to try two 21 murder cases which took most of 1983. 22 Then, I was in the general practice of law 23 24 here in Suffolk County and I was elected the district attorney in 2001.

25

1		THOMAS SPOTA
2	own policy	?
3	A. :	I think we refer to the county policy.
4	We may have	e the sexual harassment policy, which is
5	in our Ope:	rations and Procedure Manual, but for the
6	most part	we follow the county policy.
. 7	Q. 8	Showing you what's been previously
8	marked as 1	Exhibit P. Do you recognize this
9	document?	
10	Α	Yes.
11	Q. V	What is it?
12	Α.	This is the sexual harassment policy
13	that's cont	tained in our Operations and Procedure
14	Manual.	
15	Q. 5	There is also a Suffolk County policy
16	that you fo	ollow as well?
17	Α. 5	That is a very extensive policy.
18	Q. :	Is there anyone in the district
19	attorney's	office who is designated as someone who
20	employees	could complain to if they have a
21	complaint?	
22	A. 3	Yes.
23	Q. V	Who is that person?
24	A. A	At what point?
25	Q. 1	Now.

THOMAS SPOTA 1 2 Α. Edward Heilig. Is he the sexual harassment -- is he the 3 person for sexual harassment or for other types of 4 harassment or discrimination? 5 6 Α. I think -- my recollection is he is for all types of -- all complaints, I should say. 7 Q. Is that written down anywhere that 8 that's his role? 9 10 It may be. I'm not sure. 11 Do you know how an employee in the district attorney's office would know that -- I 12 forgot to give you instructions, but we are doing 13 great. I will do it now. 14 15 It is very simple. You have been deposed 16 before, right? Α. 17 Yes. Make sure that you understand my 18 question before answering and try not to talk over 19 me and I will try not to talk over you. If you 20 21 need a break, let me know. And one other thing. Anyway, that's probably fine. 22 So, I was asking you is it written down 23 24 anywhere that Mr. Heilig is the designated complaint person? 25

1		THOMAS SPOTA
2	Α.	I don't recall.
3	Q.	All right. When did you first meet
4	Ms. Thomp	son, do you remember? Changing the topics
5	again.	
6	Do yo	ou remember?
7	A. ´	Do I remember when?
8	Q.	When you first met Ms. Thompson.
9	A.	You mean the month or year?
10	Q.	Just generally. It could be the year or
11	approxima	tely when. I will ask you this, did you
12	meet her	before she became an ADA?
13	Α.	Yes.
14	Q.	Do you remember the circumstances under
15	which you	met her?
16	Α.	She was introduced to me by an attorney
17	at an Arm	istad function.
18	Q.	Do you know what Ms. Thompson was doing
19	at the ti	me, where she was working?
20	A.	Yes. She was with the Queens DA's
21	office.	
22	Q.	Did she express an interest in coming to
23	work for	you?
24	Α.	Yes. As did Mr. Moore. That is the
25	attorney	who introduced us.
1		

1		THOMAS SPOTA
2	Q.	They both wanted to come work in the
3	office?	
4	A.	No, no, no. He was the attorney who
5	introduce	ed me to Ms. Thompson, and he was
6	suggestin	ng that if possible if we could hire her.
7	Q.	All right. What happened next?
8	A.	I believe she submitted a resume.
9	Q.	Was she eventually hired?
10	A.	Yes.
11	Q.	What is your role in do you approve
12	every sin	gle hire?
13	A.	I did not then, but I do now.
14	Q.	Do you know whether you approved
15	Ms. Thomp	oson's hire?
16	A.	Well, probably because that would have
17	been I	recall we had a discussion at this
18	Armistad	so I presume that I did.
19	Q.	Like all ADAs Ms. Thompson started in
20	District	Court, right?
21	Α.	Yes.
22	Q.	And what do you know about
23	Ms. Thomp	son's experience working in District
24	Court?	
25		MS. DONNELLY: Objection.

1	THOMAS SPOTA		
2	I will tell you, in fact. I have a document		
3	here that I will mark this Thompson AA.		
4	(Whereupon, the above referred-to		
5	document was marked as Thompson		
6	Exhibit AA for identification, as of		
7	this date.)		
8	Q. Have you had a chance to review Thompson		
9	AA?		
10	A. Which one is that?		
11	Q. Both of them.		
12	A. I see. Yes.		
13	Q. Does that indicate that Ms. Thompson was		
14	transferred to the Case Advisory Bureau in 2008 and		
15	the Narcotics Bureau in 2009?		
16	A. Yes. But your question dealt with the		
17	time of the year, and I was saying normally it's		
18	September. It was October.		
19	Q. Okay. Now, back to the question that I		
20	had before that, did you hear that Ms. Thompson was		
21	late closer to the time that she started in		
22	Narcotics or closer to the time of her termination?		
23	MS. DONNELLY: Objection.		
24	You can answer.		
25	A. I don't think it was either one of them.		

1	THOMAS SPOTA
2	I think it was in between. That is my an
3	estimate.
4	Q. What, if anything, did you do upon
5	learning that from who did you learn it from,
6	Mr. Ewald?
7	A. Yes.
8	Q. What, if anything, did you do?
9	A. I asked him to if he would speak to
10	her, if there was a reason why she was being late.
11	She proffered no reason whatsoever. She told him
12	that she would change.
13	As time went on, it became apparent that she
14	was not changing. She was consistently late. This
15	was from Mr. Ewald to me.
16	Q. How many conversations did you have with
17	Mr. Ewald about Ms. Thompson coming to work late?
18	A. I couldn't tell you, but it was many.
19	Q. We talked about progressive discipline
20	before.
21	A. Yes.
22	Q. Did you ask Mr. Ewald to take any
23	progressive discipline steps with her?
24	A. I think I just answered that.
25	Q. To speak to her?

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THOMAS SPOTA

- 2
- Α. Yes, to speak to her, find out was there a reason for her being late and would she improve.
- 4

3

- Q. Right.
- 5

6

And she promised that she would improve. And what he was telling me was she proffered no reason whatsoever but that it would change.

7 8

9

Q. Did there -- as far as you knew the lateness continued; is that right?

10

Α. Yes.

Α.

the -- '13.

11

Then did you ask Mr. Ewald to take any additional steps with respect to Ms. Thompson?

13

14

12

Speak to her again. And, actually, it came about more towards the -- what was the year of

2012 was when it was in my view

15

becoming somewhat more of a concern to me and 16

17

certainly to Mr. Ewald because there was just no

18

19 And we at one point decided that we were going

to have written evaluations. And I told the bureau

change. She was consistently coming in late.

20

21 chiefs that one of the considerations, and it was

really directed toward Mr. Ewald because no one 22

23

going to -- they should consider tardiness and

24 25

lateness as one of the factors in the evaluations,

else had any complaints such as this, that we were

1 THOMAS SPOTA 2 speak to the employees. 3 Why did -- now, I think we heard 4 testimony from other witnesses that the 2013 evaluations were the first and last evaluations 5 6 under your regime. 7 MS. DONNELLY: Objection. 8 You can answer. 9 I thought I had requested -- oh, maybe 10 they were made in 2000 -- yeah, I decided it was like in the fall of the year before I told them we 11 are having -- excuse me, let me backtrack. We were 12 13 going to have evaluations of only the District Court and the Case Advisory Bureau, I believe. 14 15 decided to have evaluations of all ADAs. 16 So that would have been probably at our bureau 17 chiefs meetings in the fall of 2012. 18 Q. Why did you decide to have -- have reviews of all ADAs? 19 There had been -- there had been 20 Α. 21 discussions between Ms. Constant, Mr. Heilig, and myself that we should try written evaluations. 22 didn't think we needed them, except for the 23 24 District Court, which as I mentioned before, I 25 rarely get to the District Court. All the other

THOMAS SPOTA 1 bureaus I know everybody. I know everything, how 2 3 they are performing. I see them in their office. I stop by and see them. I see them in the 4 5 courtroom. 6 I speak to the judges. I speak to their 7 supervisors. I'm pretty much hands-on in that 8 respect. I didn't think we needed them, but we decided to do it. 9 And I was basically stressing to the bureau 10 chiefs that I wanted an absolutely fair evaluation 11 12 and a truthful evaluation. 13 I was concerned that bureau chiefs were going 14 to just say, oh, everybody is wonderful. 15 You specifically mentioned tardiness 16 should be something that should be part of the 17 review? 18 Α. Yes. 19 That was really for Ms. Thompson? 20 I wanted him to sit down with her on a written evaluation and set this record 21 22 straight. 23 Did you learn that in February of 2013 24 that there was an incident between Ms. Thompson and Ms. Wagner? 25

1		THOMAS SPOTA
2		MS. DONNELLY: Objection.
3		You can answer.
4	Α.	Did I ever learn of that?
5	Q.	Yes.
6	A.	Yes.
7	Q.	Did you learn of it at the time that it
8	happened?	
9	Α.	No.
10	Q.	When did you learn about it?
11	Α.	I think once she filed a what is it, the
12	EEOC? Is	that it? I think that came up then.
13	Q.	So eventually, according to what you are
14	telling us	s, you learned that Ms. Thompson had
15	complained	d about Ms. Wagner making a monkey
16	reference	in a conversation with her?
17		MS. DONNELLY: Objection.
18		You can answer.
19	Α.	Something like that. Yes.
20	Q.	Thinking back about it, is that
21	something	that you consider to be a serious matter?
22		MS. DONNELLY: Objection.
23		You can answer.
24	Α.	If it was the way that your client was
25	portraying	; it, possibly. But I asked Mr. Ewald to

1 THOMAS SPOTA 2 one that you wanted to look at because of the history? 3 MS. DONNELLY: Objection. 4 5 You can answer. 6 I know I wanted to speak to Mr. Ewald 7 about it. I think that he even called me even beforehand and said that he had addressed this 8 matter and it was going to be taken care of, she 9 10 had promised it would be taken care of. 11 Did you ask --0. 12 In fact, it even says that we have 13 discussed this again and it is anticipated it will 14 no longer be an issue. 15 Did you ask that Mr. Ewald do anything 16 else in connection with Ms. Thompson's lateness at that time? 17 18 Α. Well, I asked him to be on the alert and see if she indeed would live up to the promise that 19 20 she had made with respect to coming in late, 21 consistently late. 22 I will show you what's been marked 23 previously as Thompson Exhibit K. Do you recognize 24 this document? And if you need time to read it,

that is obviously fine.

25

1		THOMAS SPOTA
2	A.	Yes.
3	Q.	Did you talk to Mr. Ewald about it?
4	A.	No.
5	Q.	After what, if anything, did you do
6	with resp	ect to Ms. Thompson's lateness issues
7	after the	review in March of 2013?
8	Α.	Well, I spoke to Mr. Ewald on a number
9	of occasi	ons. I asked him to keep me apprised.
10	Hopefully	that she would change. And he from time
11	to time w	ould tell me she did not change.
12	And I	don't know how to answer it any better
13	than that	
14	Q.	Did you decide at some point she should
15	be termina	ated?
16	A.	Yes.
17	Q.	When was that?
18	A.	I don't remember the date, but
19	Q.	Did you make that decision on your own
20	or in con	junction with other people?
21		MS. DONNELLY: Objection.
22		You can answer.
23	Α.	It was my decision, but I did speak to
24	other peop	ole.
25	Q.	Now, I think we talked about before how
	`	

THOMAS SPOTA

you think -- I believe you said this, and if I got it wrong, correct me -- that termination should be

4 | a last resort, right?

- A. Yes.
- Q. Did -- after the review and after

 Ms. Thompson's lateness did not change, did you

 request that any other steps be -- any other

 progressive discipline steps be taken to correct

 the problem?
- A. I don't know if you call it progressive discipline. I just asked him to please talk to her and if there's an offer of a reason. There was no offer of any reason. And ultimately what happened was she was -- I was being told she was continuing to come in late.

We checked. When I say we, I had somebody check. I don't recall who, I tend to think it was my chief investigator, but I'm not sure -- with the security guards, who were telling us that she was engaging in what I consider to be a deceptive practice of being buzzed in, and they said she was always doing it. She didn't have to use her access card because we can check access cards.

And the security guards were telling us that

1 THOMAS SPOTA that was occurring very, very frequently. 2 3 Mr. Ewald was also telling me that she just was coming in late, and I made the decision. 4 5 Right. My question really was, after 6 the time that Mr. Ewald spoke to her at the time 7 the review was given, subsequent to that, did you 8 ask him to speak to her again? 9 Yes. I can't say I said it in those Α. 10 terms, but it was understood that he would continually be checking on her, and I presume to be 11 asking her. I can't say that I directed that. 12 13 Did you direct that she be given some Q. sort of final warning that if she didn't start 14 15 coming to work on time she would be terminated? 16 I don't think I did that. 17 Okay. Now, did you consider alternatives other than terminating Ms. Thompson? 18 19 Α. Under the circumstances as they 20 occurred, no. 21 Q. Did you consider offering her the option 22 to resign?

A. No. That was our policy in effect at the time. And there was no reason why it would vary from it.

23

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1	THOMAS SPOTA
2	MS. DONNELLY: Reserve review and
3	execution. Thank you.
4	
5	(Whereupon, the examination of this
б	witness was concluded at 1:38 P.M).
7	* * * *
8	
9	I have read the foregoing record of my
10	testimony taken at the time and place noted in the
11	heading hereof and I do hereby acknowledge it to be
12	a true and correct transcript of same.
13	
14	
15	
16	THOMAS SPOTA
17	
18	Subscribed and sworn to
19	before me this day
20	of, 2015.
21	
22	
23	NOTARY PUBLIC
24	
25	en de la companya de En la companya de la